

REMARKS

The Response filed August 2, 2005 in response to the Office Action mailed March 24, 2005 was considered not to be fully responsive. In particular, the Response was rejected for alleged improper claim numbering.

Specifically, claims 1 and 2 had been previously pending in the present application, and in the Response filed August 2, 2005 Applicants altered the claim numbering to reflect that the claims of the parent divisional application USSN 10/062,624, filed January 31, 2002, and the claims of the parent to the parent divisional application USSN 09/660,587, filed September 12, 2000 were never properly addressed.

Twenty claims were originally filed in USSN 09/660,587, so it was Applicants' understanding that the numbering in this divisional application should reflect this. Applicants addressed these parent applications by canceling the original 20 claims of the parent application and re-numbering the claims pending herein.

The Examiner disagreed and issued the Action that the Reply was not fully responsive. Applicants representative, the undersigned, had a teleconference with the Examiner on November 14, 2005 in which agreement was not reached. The undersigned was referred by the Examiner to Debra Dodson, the Supervisory Legal Instrument Examiner. On November 15, 2005 the undersigned had a teleconference with Examiner Dodson to clarify the issue. Examiner Dodson referred the undersigned to Patent Legal Administrator Kathleen Fonda. On November 15, 2005 the undersigned had multiple teleconferences with Examiner Fonda, who after some consideration agreed with the Examiner in the present case.

It is Applicants' understanding that the Examiners counseled in this case are respectfully in error but rescind the changes to further the prosecution of this case. Applicants reiterate the text of the Response filed August 2, 2005 for all other issues.

New claims 3-7 are submitted herein, and no new matter is entered herein. Support for claim 3 is in the specification at least at page 7, line 19. Support for claim 4 is at page 25, line 14. Support for claim 5 is in the specification at least at page 25, line 16. Support for claim 6 is in the specification at least at page 26, line 3. Support for claim 7 is in the specification at least at page 27, line 14.

I. Issues Under 35 USC §102

The following issues under 35 USC §102 are addressed.

A. 35 USC §102(e) and U.S. Patent No. 6,544,517

Claim 1 is rejected under 35 USC §102(e) for being anticipated by U.S. Patent No. 6,544,517 ("Rikihisa").

Claim 1 as amended herein is not taught by Rikihisa. Applicants respectfully request removal of the rejection.

B. 35 USC §102(b) and WO 99/13720, Ohashi *et al.* (1998), and Reddy *et al.* (1998)

Claim 1 is rejected under 35 USC §102(e) for being anticipated by WO 99/13720, Ohashi *et al.* (1998), and Reddy *et al.* (1998).

Claim 1 as amended herein is not taught by any of these references. Applicants respectfully request removal of the rejection.

II. Issues Under 35 USC §101

Claim 1 was rejected under 35 USC §101 because the claimed invention was allegedly directed to non-statutory subject matter. Applicants note that Claim 1 concerns a recombinant polypeptide, which does not exist naturally.

Applicants respectfully request removal of the rejection.

III. Conclusion

Applicants believe no fee is due with this response. Applicants refer the Examiner to the previously filed Petition for Extension of Time of Two Months and the requisite fee. However, if another fee is due, please charge our Deposit Account No. 06-2375, under Order No. AH-CLFR:181USD6 from which the undersigned is authorized to draw.

Dated:

Dec. 5, 2005

Respectfully submitted,

By *Melissa L. Sistrunk*

Melissa L. Sistrunk

Registration No.: 45,579

FULBRIGHT & JAWORSKI L.L.P.

1301 McKinney, Suite 5100

Houston, 77010-3095

(713) 651-5151

(713) 651-5246 (Fax)